

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARK THOMPSON, et al.,
Plaintiffs,
v.
CITY OF SAN JOSE,
Defendant.

Case No. 22-cv-07186-JSC

TEMPORARY RESTRAINING ORDER

Re: Dkt. Nos. 6, 7

Plaintiffs, who live in mobile homes and vehicles at the Guadalupe Garden encampment in Columbus Park in San Jose, seek a temporary restraining order (“TRO”) preventing the City of San Jose from seizing or destroying their vehicles. (Dkt. No. 6.) Plaintiffs meet the standard for temporary relief that preserves the status quo until the City can appear and be heard; the motion for a TRO is GRANTED. *See* Fed. R. Civ. P. 65(b); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011). The City placed a notice on Plaintiffs’ vehicles on November 10, 2022, which warns that the vehicles can be towed or removed without further notice. And Plaintiffs’ declarations indicate their vehicles and property may be destroyed, not simply moved. Therefore, because seizure or destruction of Plaintiffs’ vehicles may be imminent, this TRO will issue without notice. *See* Fed. R. Civ. P. 65(b)(1). Its terms appear at the end of this Order.

The Clerk of Court shall immediately issue a summons and the U.S. Marshal shall immediately serve a copy of the summons, complaint (Dkt. No. 1), motion for a TRO (Dkt. No. 6), and this Order on the City. Separately, the Clerk of Court shall immediately, no later than 5:00 p.m. today, electronically serve a copy of this Order, the complaint (Dkt. No. 1), and the motion for a TRO (Dkt. No. 6), on the San Jose City Attorney at cao.main@sanjoseca.gov.

The City may file an opposition to Plaintiffs’ motion for a TRO, up to 15 pages, by 5:00

p.m. on Friday, November 18, 2022. The Court will hold a hearing on the TRO at **11:00 a.m. on Monday, November 21, 2022 by Zoom video.**¹ However, if the City wishes to continue the hearing until after the Thanksgiving holiday, it may file a notice on the docket and serve that notice on Plaintiffs at the following email addresses: rah94062@gmail.com, markt315@gmail.com, jpechivaria533@gmail.com, imuscheryl9@gmail.com. In that case, **the TRO will remain in place** and the Court will hold a hearing instead at **11:00 a.m. on Tuesday, November 29, 2022 by Zoom video**, with the City's response due by noon on Monday, November 28, 2022.

This Order disposes of Docket No. 7.

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TEMPORARY RESTRAINING ORDER

This TRO applies to the City of San Jose; its officers, agents, servants, employees, and attorneys; and persons who are in active concert or participation with the City. These individuals and entities are hereby RESTRAINED until further notice from towing, seizing, removing, or destroying vehicles and personal possessions from the Guadalupe Garden encampment, or removing individuals from the Guadalupe Garden encampment.

This TRO does not prohibit particularized removals or other actions that are unrelated to the vehicle abatement program (such as lawfully removing possessions in the course of suppressing a fire or effectuating a lawful arrest for unrelated reasons).

IT IS SO ORDERED.

Dated: November 16, 2022


JACQUELINE SCOTT CORLEY
United States District Judge

¹ The hearing will be available at the following link: <https://cand-uscourts.zoomgov.com/j/1613661817?pwd=Z0tnSzBvKzJMN25SRFB3M1B6dFBadz09>. More information is available on the Court's webpage: <https://cand.uscourts.gov/judges/corley-jacqueline-scott-jsc/>.